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STAFF COMMENTS

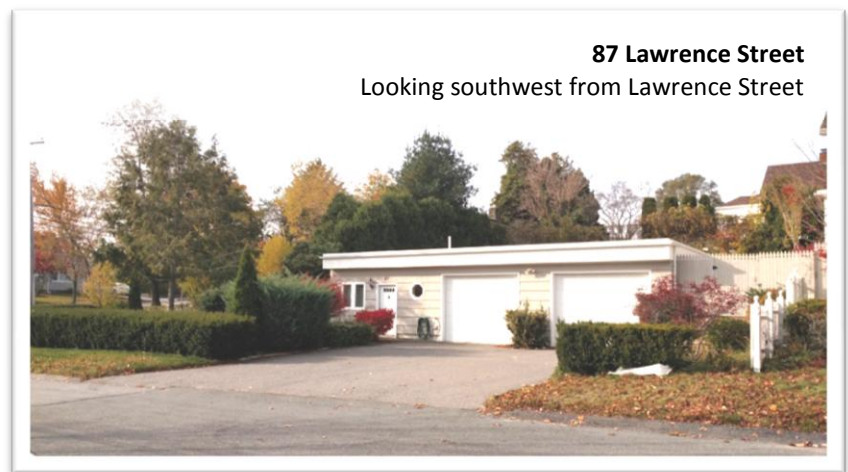
ZONING BOARD OF APPEALS MEETING

November 17, 2016

Case # 4254: SPECIAL PERMIT
87 Lawrence Street
Map: 127A, Lot: 179

Owner: Francisco Rocha
4441 Edinbridge Circle
Sarasota, FL 34235

Applicant: Joseph E. Swift
25 Nelson Street
Fairhaven, MA 02719



Overview of Request: The petitioner has submitted an application for a **Special Permit** relative to the subject property located within a **Residential A [RA]** zoning district. The property is an existing nonconforming use and structure under the city's code of ordinances with a single story office building with a two car stall garage. The petitioner proposes to add a second story above the existing building resulting in a raised ranch style single family residential house. A change to an existing nonconforming property requires a Special Permit from this board.

As with all Special Permits, the ZBA must determine that the benefit to the City and the neighborhood outweighs the adverse effects of the proposed use. To this end the board shall consider each of the following in its determination:

- a.) social, economic, or community needs which are served by the proposal;
- b.) traffic flow and safety, including parking and loading;
- c.) adequacy of utilities and other public services;
- d.) neighborhood character and social structures;
- e.) impacts on the natural environment; and potential fiscal impact, including impact on city services, tax base, and employment.

Additionally, the ZBA must determine that the proposed change to the nonconforming structure shall not be:

- f.) substantially more detrimental than the existing nonconforming structure to the neighborhood.

Existing Conditions: The 7,033± sq. ft. corner lot is "L" shaped with 97'± frontage on Lawrence Street and 47'± on the adjacent Tarkiln Hill Road and a depth of 86'± on the north side. Currently, on the property is a 44'x24' flat roof building with a small office, driveway, and a two car garage. The building currently has an office, small bathroom with

a standup shower and a two car garage. The topography changes quickly in this neighborhood and on this lot. The property grade rises steadily from the front to back or (east to west). The structure is built into the land, and sits 11' from the north side property line, 29.3' from the front (east side), 33' from the rear (west), and 7' from the nearest south side property boundary. This lot sits much below the properties to the rear and north side. A fence separates the property from the north side abutter and a large retaining wall separates the property from the rear abutter. The property is extensively landscaped including mature trees and shrubbery predominantly in the south side yard, a line of shrubbery surrounds the property, and a line of shrubs runs adjacent to the building from the rear southwest corner to the rear retaining wall.

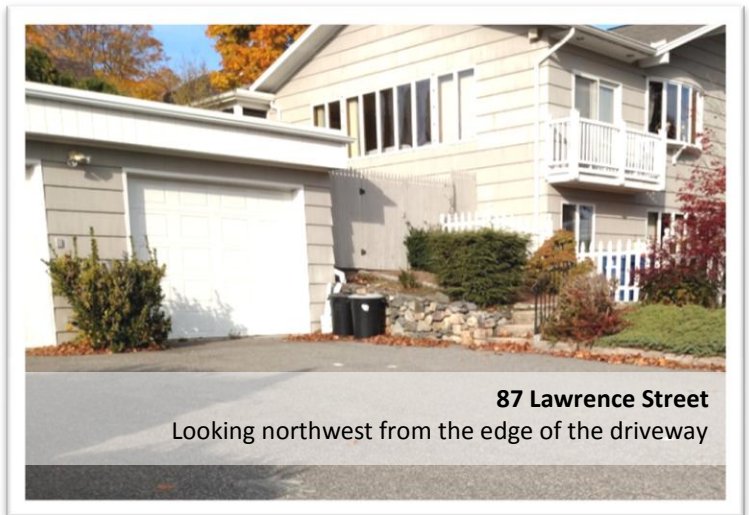
This site is located in the North End, two blocks west of Fire Station No. 9 within a neighborhood consisting of predominantly single family houses with a few two-family houses and one multifamily apartment building.

Proposal: The petitioner proposes to alter the nonconforming building by adding a second story onto the existing building and removing one of the garage doors. The resulting structure will be a raised ranch style single family house 27' in height as measured at the street elevation. However, as the existing structure is built into the grade of the land, the second story floor will be at grade with the land in the rear of the house. The use as a single family house is an allowed use in the zoning district; it is the structural change to the building for which the board is asked to consider a Special Permit.

The existing conditions and the proposed conditions are considered nonconforming as the property is under the minimum lot size and side yards requirements. Additionally, by removing one of the garage doors, a portion of the existing driveway is proposed to be in front of the dwelling, something which is not allowed under zoning code and would thus be considered nonconforming. The lot is 7,033 sq. ft. where 8,000 sq. ft. is required. The side yard setbacks are, and are proposed to remain, 7' on the south side, where 10' is required; and 11' on the north side, where 12' is required. The 27' height as proposed is within the limits on height of buildings in the zoning district, the maximum allowed height is 45' in the RA zoning district.

In regards to the criteria necessary to grant the special permit, staff offers the following:

- a.) **Social, economic or community needs which are served by the proposal.** The applicant notes in the petition that "this would serve better the neighborhood as a single family home than someone running a business out of it. It should also increase the tax base for the city." Planning staff agrees that a residential use in this location would more appropriately fit in with the neighborhood's character when compared with the alternative.



- b.) **Traffic flow and safety including parking/unloading.** The applicant describes Lawrence Street as having a “low volume of traffic,” consistent with the Planning staff’s own assessment. Further, the petitioner points out the property has parking for at least two cars and “feels as though there would be less traffic flow, safety, parking and loading issues as a single family” than as a small business. The petitioner indicates in the application that a plumber and contractor previously worked out of this location. Planning staff notes adequate on-site parking is provided for the proposed use under the zoning code.
- c.) **Adequacy of utilities and other public services.** Petitioner’s application notes there is existing utility service adequate for the proposed use and “there are no additional burdens on public services”.
- d.) **Neighborhood character.** The proposed special permit would allow the petitioner to build the second story addition onto the existing structure. The petitioner characterizes the neighborhood as “quiet, single family and a couple of 2 family homes.” Further, writing in the application “the conversion will create a single family home consistent with other single families in the Residence “A” zoning district and be in harmony with the zoning map...”
- Planning staff notes the neighborhood is heavily residential and comprised of single, two family and multi-family dwellings. This includes several houses of a similar style and two stories in height. In this respect, the proposed addition would not be inconsistent with the existing neighborhood character.
- e.) **Impacts on the natural environment/potential fiscal impact, etc.** The petitioner writes the proposal will have “very limited impact on the natural environment” - as the building already exists and will have only the addition of a “small roof over the entry as far as impermeables go. [sic]” It “may cast larger shadows” the petitioner writes. In regards to fiscal impact the petitioner states “the expansion will improve the tax base and will be an overall improvement to the City of New Bedford”.
- f.) **Nonconforming structures.** Although the applicant did not directly address criteria for nonconforming structures, they do indicate that the proposed single family house is in harmony with the surrounding neighborhood and more in line with zoning than the previous use.

For Board Member Consideration:

- The subject parcel is located in a residentially-zoned neighborhood the location is not well-suited for a commercial use. Most commercial uses are not allowed in the RA zone under the current zoning ordinance; on the contrary, residential uses are more appropriate and encouraged in this zone. The proposal expands the size and scale of the existing building on the site. Based on submitted plans, while staff does have some concern with the proximity of the second story to the house abutting on the north side, staff also recognizes that the proposal is shy only 1’ from the 12’ requirement on that side and the abutting property is also existing nonconforming built close to the property side line.
- Staff notes that this property and the abutting property to the north were at one time held in common ownership but are no longer based on a recent deed search. A picket fence has been installed along the property line to visually delineate the property boundaries. If the board wishes to grant the Special Permit, it may wish to consider that fencing to delineate this north side property line be a condition of approval so as to reduce any potential future confusion about allowed use and ownership of that portion of land.
- The board may also wish to consider a condition that requires a landscaped buffer be installed in the location where the garage door is to be removed between the driveway and the house.



87 Lawrence Street Map: 127A, Lot: 179

NOTE: Property line is approximate; for discussion purposes, only.

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41°40'56.03" N 70°56'09.44" W elev 116 ft eye alt 476 ft